

REMARKS

Amendments to the Claims

Claims 1 and 17 have been amended to include additional details of the claimed inventions. Support for the amendments may be found, for example, at paragraphs [0045], [0047], [0053], [0058] and [0076]. The Applicants respectfully submit that no new matter is added by these amendments.

Rejections of Claims

Claims 1-31 are pending in the Application. Claims 1-31 were originally filed in the Application on March 24, 2004. Claims 1-31 were rejected in an Office action mailed February 28, 2005, to which a response was filed May 26, 2005. All of claims 1-31 were rejected in a final Office action mailed August 10, 2005, to which a response was filed October 6, 2005. Claims 1-31 stand rejected in the Advisory action of November 17, 2005. New claims 32-39 are added by this amendment. Claims 1, 17 and 32 are independent claims. Claims 2-16, 18-31 and 33-39 depend, respectively, from independent claims 1, 17 and 35. The Applicants respectfully request continued examination of the pending claims 1-31, and consideration of new claims 32-39, in light of the following remarks.

Rejections Under 35 U.S.C. §102(e)

Claims 1-7, 9-11, 15-20, 22, and 24-31 were rejected under 35 U.S.C. §102(e) as being anticipated by Parixit Aghera et al., US2004/0098715A (hereinafter "Aghera"). The Applicants respectfully traverse the rejection. However, in an effort to move the Applications towards allowance, the Applicants have amended independent claims 1 and 17.

With regard to the anticipation rejections, MPEP 2131 states, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP 2131 also states, "[t]he identical

invention must be shown in as complete detail as is contained in the ... claim.” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Regarding amended claim 1, the Applicants respectfully submit that the Aghera reference fails to teach, suggest, or disclose, for example, an electronic device network, the network comprising a plurality of servers; and a plurality of electronic devices communicatively coupled to at least one of the plurality of servers, each of the electronic devices being adapted to employ at least one of a plurality of update agents resident in the electronic device, wherein the update agent employed is selected to correspond to a type of update information received by the electronic device from the at least one of the plurality of servers, wherein the selected update agent processes the received update information to modify a first version of one of software and firmware in the electronic device to a second version, and wherein the electronic device is also adapted to provision the plurality of update agents with parameters and data used to facilitate update operations in the electronic device. More specifically, Aghera fails to teach wherein the update agent employed is selected to correspond to a type of update information received by the electronic device from the at least one of the plurality of servers. Aghera is silent with regard to selection of update agents, let alone that an update agent is selected to correspond to a type of received update information. In addition, Aghera fails to teach wherein the selected update agent processes the received update information to modify a first version of one of software and firmware in the electronic device to a second version. Instead, Aghera teaches **replacement** of existing patches with a new patch, not modification. (para. [0022]) Aghera also fails to teach wherein the electronic device is also adapted to provision a plurality of update agents with parameters and data used to facilitate update operations in the electronic device. Instead Aghera teaches sending capability negotiation parameters to a patch server. (para. [0054]) The Applicants respectfully submit, therefore, that the Aghera reference fails to teach all of the elements of Applicants’ claim 1, and that a rejection of claim 1 under 35 U.S.C. §102(e) cannot be maintained.

Therefore, for at least the above stated reasons, the Applicants respectfully submit that Aghera is different from and fails to anticipate the Applicant’s invention as set forth in amended claim 1. Applicants believe that claim 1 is allowable over Aghera. Because claims 2-16 are dependent upon claim 1, Aghera is different from and fails to anticipate claims 2-16, as well.

Therefore, claims 2-16 are also allowable over the Aghera reference. The Applicant respectfully requests that the rejection of claims 1-7, 9-11, 15, 16 under 35 U.S.C. §102(e), be withdrawn.

Regarding claim 17, the Applicants respectfully submit that the Aghera reference does not teach, suggest, or disclose, for example, a method employing a plurality of update agents in an electronic device in an electronic device network, the method comprising communicatively coupling a plurality of electronic devices to at least one of a plurality of servers; selecting at least one of a plurality of update agents resident in the electronic device to modify a first version of one of software and firmware in the electronic device to produce an updated version, wherein each of the plurality of update agents is arranged to process a corresponding type of update information received from the at least one of a plurality of servers; and provisioning the plurality of update agents with parameters and data used to facilitate update operations in the electronic device. More specifically, Aghera fails to teach selecting at least one of a plurality of update agents resident in the electronic device to modify a first version of one of software and firmware in the electronic device to produce an updated version. Aghera is silent with respect to selection of at least one of a plurality of update agents arranged to process corresponding types of update information. In addition, Aghera teaches **replacement** of an existing patch, not modification as recited in Applicants' claim 17. (para. [0022]) The Applicants respectfully submit, therefore, that Aghera fails to teach all of the elements of Applicants' claim 17, and that a rejection under 35 U.S.C. §102(e) cannot be maintained.

Therefore, for at least the above stated reasons, the Applicants respectfully submit that Aghera is different from and fails to anticipate the Applicant's invention as set forth in claim 17. Applicants believe that claim 17 is allowable over Aghera. Because claims 18-31 depend either directly or indirectly from claim 17, Aghera is different from and fails to anticipate claims 18-31, as well. Therefore, claims 18-31 are also allowable over the Aghera reference. The Applicant respectfully requests that the rejection of claims 17-20, 22, and 24-31 under 35 U.S.C. §102(e), be withdrawn.

Rejections Under 35 U.S.C. §103(a)

Claims 8 and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over US2004/0098715A by Parixit Aghera et al. (hereinafter "Aghera"), in view of U.S. Patent No. 5,708,776 by Dan Kikinis (hereinafter "Kikinis"). The Applicants respectfully traverse the rejection.

With regard to an obviousness rejection, MPEP 2142 states that in order for a prima facie case of obviousness to be established, three basic criteria must be met, one of which is that the reference or combination of references must teach or suggest all the claim limitations. Further, MPEP 2143.01 states that "the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art suggests the desirability of the combination", and that "although a prior art device 'may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so'" (citing *In re Mills*, 916 F. 2d 680, 16 USPQ 2d 1430 (Fed Cir. 1990)). Moreover, MPEP 2143.01 also states that the level of ordinary skill in the art cannot be relied upon to provide the suggestion..., citing *Al-Site Corp. v. VSI Int'l Inc.*, 174 F. 3d 1308, 50 USPQ 2d. 1161 (Fed Cir. 1999).

The Applicants respectfully submit that claims 8 and 23 are dependent claims of independent claims 1 and 17, respectfully. Applicants believe that independent claims 1 and 17, as amended, are allowable over the proposed combination of references, in that the proposed combination of references fails to overcome the deficiencies of Aghera, as set forth above. Because claims 8 and 23 depend, respectfully, from amended claims 1 and 17, the Applicants respectfully submit that dependent claims 8 and 23 are allowable over the proposed combination of references for at least the reasons set forth above with respect to claims 1 and 17, respectfully. Therefore, the Applicants respectfully request that the rejection of claims 8 and 23 under 35 U.S.C. 103(a) be withdrawn.

Claims 12-14 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over US2004/0098715A by Parixit Aghera et al. (hereinafter "Aghera"), in view of U.S. Patent No. 6,493,871 by Thomas D. McGuire (hereinafter "McGuire"). The Applicants respectfully traverse the rejection. Regarding claims 12-14, the Applicants submit that claims 12-14 depend either directly or indirectly from independent claim 1. Applicants believe that independent claim 1, as amended, is allowable over the proposed combination of references, in that the proposed

combination of references fails to overcome the deficiencies of Aghera. Because claims 12-14 depend from claim 1, the Applicants respectfully submit that dependent claims 12-14 are allowable over the proposed combination of references for at least the reasons set forth above with respect to claim 1. Therefore, the Applicants respectfully request that the rejection of claim 12-14 under 35 U.S.C. 103(a) be withdrawn.

Regarding claim 21, the Applicants submit that claim 21 depends indirectly from independent claim 17. Applicants believe that independent claim 17, as amended, is allowable over the proposed combination of references, in that the proposed combination of references fails to overcome the deficiencies of Aghera. Because claim 21 depends from claim 17, the Applicants respectfully submit that dependent claim 21 is allowable over the proposed combination of references for at least the reasons set forth above with respect to claim 17. Therefore, the Applicants respectfully request that the rejection of claim 21 under 35 U.S.C. 103(a) be withdrawn.

Newly Added Claims

New claims 32-39 are added by this Amendment, and are similar in many respects to claims 1-31, that are allowable for the reasons set forth above. Applicants believe that these new claims are allowable for at least the same reasons that claims 1-31 are allowable. Claim 32 is an independent claim. Claims 33-39 depend either directly or indirectly from claim 32.

Conclusion

The Applicants believe that all of pending claims 1-39 are in condition for allowance. Should the Examiner disagree or have any questions regarding this submission, the Applicants invite the Examiner to telephone the undersigned at (312) 775-8000 to resolve any issues.

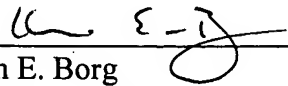
A Notice of Allowability is courteously solicited.

Appln. No.: 10/807,694
Request for Continued Examination w/Amendment dated Dec. 8, 2005
Reply to Advisory Action of November 17, 2005

The Commissioner is hereby authorized to charge any additional fees associated with this communication, or credit any overpayment, to Deposit Account No. 13-0017.

Respectfully submitted,

Dated: December 8, 2005
McANDREWS, HELD & MALLOY, LTD.
500 West Madison Street
Suite 3400
Chicago, Illinois 60661
Phone (312) 775-8000
Facsimile (312) 775-8100



Kevin E. Borg
Reg. No. 51,486